

REMARKS

The claims are 1 and 5-16. Reconsideration of the present claims is respectfully requested.

Claims 1, 5-7, 9, 12-15 stand rejected under 35 U.S.C. §103 as allegedly obvious over U.S. Patent No. 2,837,042 (Laval) in view of JP 61035748 (Nishi) and U.S. Patent No. 5,996,768 (Boyce). Claims 8, 10 and 11 were rejected as allegedly obvious over the same art further in view of EP0915014A (Ackley). Claim 16 stands rejected as allegedly obvious over Laval in view of Nishi and Boyce and further in view of JP63196229 (Morishita). Applicants respectfully traverse these rejections.

Prior to discussing the merits of the rejection, Applicants believe it would be helpful to discuss the advantages of the present invention. The method of the present invention provides a highly advantageous means to decorate chocolate tablets with pellet shaped candy pieces, such as M&Ms® Chocolate Candies, in a precise and predetermined arrangement that is defined by the arrangement of the pocket placement of the carrier bars on a conveyor. The candy pieces are arranged in recesses in the chocolate tablet to form a design or pattern. Advantageously, the carrier bars can be readily changed on the conveyor to alter the design or pattern when so desired.

Laval is directed to a device for placing small candy pellets on cereal granules or dough. Clearly these are not chocolate tablets and certainly not chocolate tablets having recesses for receiving pellet shaped candy in a defined pattern in the recesses. It is again noted that the hole created in the cereal granules by the pricking device is not a recess for holding the pellets therein, but instead is a perforation into which a

bonding agent is placed. There is simply no disclosure of placing a candy piece into a recess and the precision required therefore since the pellets in this embodiment of Laval sit proud on the cereal, the hole only being present to hold a bonding agent.

In response, the Examiner asserts that “claim 1 does not recite a recess for holding the pellets therein.” Applicants respectfully disagree. If the candy pieces are transferred in a predetermined defined pattern and the recesses for receiving the pellet shaped candy are in the same pattern then it is respectfully submitted that the pellets are held within the recesses. While it is true that limitations are not read into the claims from the specification, it is also without question that the meaning of terms used in the claims are construed in view of the specification.

Accordingly, it is respectfully submitted that one of ordinary skill in the art would not interpret Laval as suggesting that the pellet shaped candies could be precisely arranged in the recesses of a chocolate tablet to form a predetermined pattern.

It is respectfully submitted that none of Boyce, Nishi, Ackley or Morishita remedy the deficiencies of Laval, whether taken alone or together. The Examiner asserts that references cannot be attacked individually. Applicants respectfully submit that secondary references relied upon by the Examiner would not have provided the motivation to alter the disclosure of Laval to achieve the presently claimed invention.

Boyce discloses the use of carrier bars that can be changed to work with different sized pellets. However, Boyce makes no disclosure or even suggestion of using carrier bars having various pocket placement to effect the arrangement of pellet shaped candies. Boyce is simply directed to a quick change drum so that pellets of various sizes or shapes can be properly printed on and makes no suggestion of using different carrier bars

to provide a predetermined arrangement of candies in the corresponding recesses of a chocolate tablet. There is nothing in Boyce that would have suggested that Laval should be modified to use carrier bars having differently placed recesses, or for that matter some having no recesses at all, so as to define an arrangement of candies.


Nishi is also deficient. Nishi discloses gluing a piece of chocolate to a base piece of chocolate with molten chocolate. The Examiner attempts to turn this disclosure into a suggestion that chocolate tablets would obviously have recesses into which pellet shaped candies are placed. It is still not seen how, without impermissible hindsight reasoning, that the Examiner can reach this conclusion. In any event, the present invention continues to be much more than this. It is a highly advantageous technique using a conveyor system with carrier bars having the appropriate placed pockets for producing a decorated chocolate tablet with a predetermined pattern of pellet shaped candies.

The Examiner relies on Ackley for teaching a ramp conveyor and Morishita for teaching printing on pellets. Clearly neither of these references overcome the deficiencies of Laval, Boyce and Nishi. In that regard, the Examiner should note that the method of this invention when coupled with a printing step, such as found in claim 16, provides a unique technique for delivering a printed pellet shaped candy piece in a defined arrangement in on a chocolate tablet with uniform display of the image printed on the candy piece. For example, if the method were used to print the “m” on M&M’s® chocolate candies, one could ensure that when the printed candy pieces were placed in the chocolate tablet that the “m” was displayed or “up” using the method of this invention. It is respectfully submitted that the art of record does not disclose or suggest this claimed embodiment, let alone the advantage associated therewith.

Wherefore, it is respectfully submitted that the cited art, whether taken alone or together, does not disclose or suggest the presently claimed invention. Accordingly, it is respectfully requested that the claims be allowed and the case be passed to issue.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,


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